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"Native Land Claims and Mineral Resource Implications"

Statement of evidence of

ANDREW R. THOMPSON

before the

MACKENZIE VALLEY PIPELINE INQUIRY

YELLOWKNIFE, N.W.T.

April, 1976

DIRECT TESTIMONY

of

Dr. Andrew R. Thompson,
Professor of Law,
University of British Columbia

1. The proposed pipeline that is the subject of this inquiry is simply a mechanical system for delivering natural gas produced in the Mackenzie Delta and elsewhere to markets in southern Canada and the United States. Its justification can be established only in terms of benefits derived from the exploitation of this natural resource. In my evidence I will address the questions of who should benefit and what form the benefits should take. It must be clear that I am not stating a Dene position, and that my conclusions are based entirely on my studies of the history of natural resource developments in Canada and elsewhere and my knowledge of the laws governing the ownership and development of natural resources in the Northwest Territories.

2. My conclusions are:

- (i) The peoples traditionally resident in a region are those entitled to benefit from the development of natural resources. This entitlement is based on both political and legal rights.

(ii) The direct and indirect benefits flowing from the ability to control natural resource developments are equally as important as financial benefits derived from royalties, taxes, etc.

(iii) A settlement of native land claims provides an opportunity to ensure that native peoples in the Northwest Territories who are the traditional residents will be the beneficiaries of natural resource developments in the region through the direct and indirect benefits that will flow from a suitable definition of political and legal rights with respect to natural resources in the terms of settlement.

(iv) A settlement of native land claims must be achieved prior to the approval of natural resource developments if this opportunity is to be realized.

3. In political terms, control over natural resources has been an issue of colonialism from the earliest times.

I quote from a lecture I delivered in Yellowknife in February, 1969:

History repeats itself - sometimes like a broken sound track! From the time of the Constitutional Act of 1791, which established Canada's first legislative assembly after the cession of Canada to Great Britain, until the Act of Union of 1840, - a period of 50 years when a system of responsible government was evolving for the colony of Canada - an increasing and oftentimes bitter conflict grew



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over control of natural resources. Colonists demanded that the Governor answer to the colonial assembly for his dispositions of Crown lands. The conflict was summed up in a report by Charles Buller to Lord Durham that the Crown lands were 'in name the property of the Crown, and under the control of an English minister; while the Assembly claimed that the administration of the Crown lands ought to be entrusted to ministers responsible to the Assembly, and that revenue arising therefrom ought to be under the control of the representatives of the people'. Substitute 'Council' for 'Assembly' and there's a familiar ring to this claim. But it was made in 1838, not 1968, and it was granted by the Act of Union, 1840.

In 1852, by the Imperial statute 15 and 16 Vict. c. 39, this claim, won by the Canadian colonists, was given formal recognition throughout the British colonies. The statute of 1852 declared that all 'monies arising from the sale or disposition of the lands of the Crown in any of Her Majesty's colonies or foreign possessions' would no longer accrue to the consolidated revenues of Great Britain. The Colonial Office would say, when dealing with the surrender of Rupert's Land by the Hudson's Bay Company in 1869, that 'It is clear that colonists of the Anglo-Saxon race look upon the land revenue as legitimately belonging to the community.' Accordingly, when responsible government was granted to the Australian colonies, to New Zealand and to Newfoundland, the arrangement took the form of a grant by Great Britain of full rights over the lands in exchange for the colony undertaking the duties and obligations of self-government.

This ordering of affairs was quite naturally continued at Confederation. The British North America Act, 1867, provided, by s. 109, that each of the four confederating provinces, Upper Canada, Lower Canada, New Brunswick and Nova Scotia, would retain ownership and control of its natural resources. When British Columbia joined Canada in 1871, it was taken for granted that it would retain its natural resources. The principle was carried so far that the stumbling block which kept Prince Edward Island out of Confederation until 1873 was

the fact that all its lands had been alienated in earlier times by the British governor of the colony, and Prince Edward Island would not come to terms until it was agreed that Canada would pay the new province a sufficient sum of money to enable it to buy back its lands from absentee British owners. Again, when Newfoundland entered the Dominion as a province in 1949 it kept its land and mineral resources.

4. In the international context, control over natural resources has been an aspiration of underdeveloped countries almost from the inception of the United Nations, finding formal recognition in U.N. Resolution No. 1803 (XVII) of December 14, 1962. I quote from my Yellowknife lecture:

. . . sovereignty over natural resources by the people of any region is today recognized as a precept of international law derived from the resolutions of the United Nations. I will quote from Resolution No. 1803 (XVII) of December 14, 1962. This resolution contains the declaration that:

. . . the rights of peoples freely to use and exploit their natural wealth and resources is inherent in their sovereignty and is in accordance with the Purposes and Principles of the Charter of the United Nations

That this right is intended to be afforded, not merely to states as technical and legal entities, but to peoples as inhabitants of a recognizable geographic region, is clear in the writings of international lawyers and jurists. Therefore, one must conclude that the long-established precedent of British colonialism whereby the inhabitants of a self-governing region are given control of their natural resources is today recognized as a precept of international law, applicable to all peoples everywhere who can assert a right to self-government.

5. The significance of the drive for national sovereignty over natural resources by the underdeveloped countries became clear to countries like Canada during the 1973 oil embargo imposed by the OPEC countries. The legal background to this OPEC action is explained by Dr. Hasan Zakariya, Chief of the Legal Department of OPEC until 1965, in an article entitled "Sovereignty, State Participation and the Need to Restructure the Existing Petroleum Concession Regime", prepared in 1971 and published in 1972 in Vol. X, Alberta Law Review, 218-231. At page 222, he described the deficiencies of the legal arrangements in the early concession agreements as follows:

Participation in the Management

The exporting countries have not only been unduly prevented from obtaining a meaningful share in the equity ownership in the majority of the conventional concessions, as has been shown, but partly as a result of this, have also been denied any effective participation in the actual management and control of the various operations of the concession.

At page 224, he explained what the Middle East states hoped to achieve by new forms of agreement with the oil companies:

It is, of course, at once clear that ownership participation in the concessions would certainly increase the state's share of profits. By becoming a partner in a very lucrative enterprise, the state would naturally be entitled to receive - in addition to royalties, taxes and the other benefits which are already accruing to it - a share of the annual dividends in accordance with normal business practice. Although such an increase in the revenues is of itself sufficient reason for desiring state participation, there are other intangible advantages to be derived from it in the long term.

. . . By enabling their experts to play an active and direct role in the various day-to-day aspects of petroleum operations, the exporting countries concerned would acquire first-hand experience in these matters which would prove invaluable in facilitating the task of eventually taking over these operations completely, upon the expiry of the concession or perhaps even before that date. Moreover, by taking an effective part in the actual management of the whole enterprise, which participation would entitle it to do, the country concerned would at least enjoy the same privileges as the foreign concessionaire in directing the way in which petroleum resources are to be utilized and in shaping the policies to be pursued in both the short and long term.

All these are vital aims which transcend the mere raising of government revenues. The legal measures taken to attain these aims should of course be of such a nature as to guarantee their realization in the shortest possible period of time.

In these passages, Dr. Zakariya is identifying the benefits of direct participation in the management of petroleum developments in terms both of the financial return to the state and of the political and cultural goals of its peoples. The parallel for native peoples in the Northwest Territories is that financial returns from oil and gas development can provide the funding for social and cultural programmes and participation in management can give the native peoples both a voice in the decisions of natural resource developers and training opportunities to enable them sooner to manage on their own the land rights provided in the land claims settlement.

6. It is my opinion that the history of the management of natural resources demonstrates conclusively that there is an abiding concern by the people of a region as to when, how, by whom, and for whose benefit natural resources are to be developed and that countries ignore this concern at their peril. The key to a just and lasting settlement of native land claims will be the arrangement made for the management of natural resources. Because mineral resource developments loom so large in the north, management of mineral resources is a critical element in any scheme for the management of natural resources.

7. When the prairie regions of Canada attained provincehood (Manitoba, 1870; Alberta and Saskatchewan, 1905), the British colonial precedent whereby self-governing regions were given control over natural resources, and the precedent of confederation, whereby the founding provinces of Ontario, Quebec, New Brunswick and Nova Scotia, and later, the provinces of British Columbia and Prince Edward Island, were given ownership and control over natural resources, were ignored, and the Dominion of Canada retained ownership and control.

In my 1969 Yellowknife lecture, I stated:

These precedents reaped bitter years in the beginnings of the prairie provinces - years that leave a residue of prairie chauvinism which manifests itself today when issues of national unity arise. This bitter feeling toward the imperialism of eastern Canadians

finds expression in writings of the times - I refer to A. Bramley-Moore, writing in 1910. His title is 'Canada and Her Colonies or Home Rule for Alberta'. I also refer to Chester Martin's book 'The Natural Resources Question', published in 1920 as an official study for the Province of Manitoba. I have borrowed heavily from this work, which pleads Manitoba's case fifty years after formation of the Province for transfer to it of ownership and control of its natural resources. This book profoundly affects me because of its political and moral implications. Canada's disunities today are built on inequities of yesterday. I cannot lightly bear the thought that one day the northerner will condemn me, a southerner, for fifty years of exploitation of the resources he rightfully considers his own. I do not want to hear the northerner of the future say of the Territories, as Chester Martin had to say of Manitoba, that the years which followed provincehood were the most humiliating in its history. I quote: 'The province struggled courageously under financial responsibilities which, despite an economy verging upon abject parsimony, were utterly beyond the powers of the Provincial Treasurer to meet from the resources at his disposal.' I cannot believe that Canadians, who are today so conscious of the need for national unity, can callously contemplate the prospect that northerners will one day take up the chorus of disunity because we abuse their birthright today.

8. In 1930, the Dominion of Canada transferred ownership and control of natural resources (or, more accurately, what was left of them after years of outright alienation of surface and mineral rights by the federal government) to the prairie provinces. In my Yellowknife lecture in 1969, I advocated that the historical, legal and political precedents require that ownership and control over natural resources be transferred to the regions of the Yukon and Northwest Territories when

these regions are given provincial status and that, meantime, the Parliament of Canada should declare the federal government to be a trustee of these natural resources for these future provinces, and should enact legislation for sharing management of these resources with the regions.

9. Since 1969, my perceptions have broadened to include an awareness of the land claims of the native peoples. As the traditional residents of the region, they enjoy the political claim to control natural resources under international law and under British and Canadian constitutional law that I have outlined in the preceding paragraphs. In addition they have, in my opinion, a legal claim to such control under the doctrine of aboriginal rights.

10. I will now explain the kinds of interests in mineral resources that are legally recognized and the kinds of management rights that these interests confer.

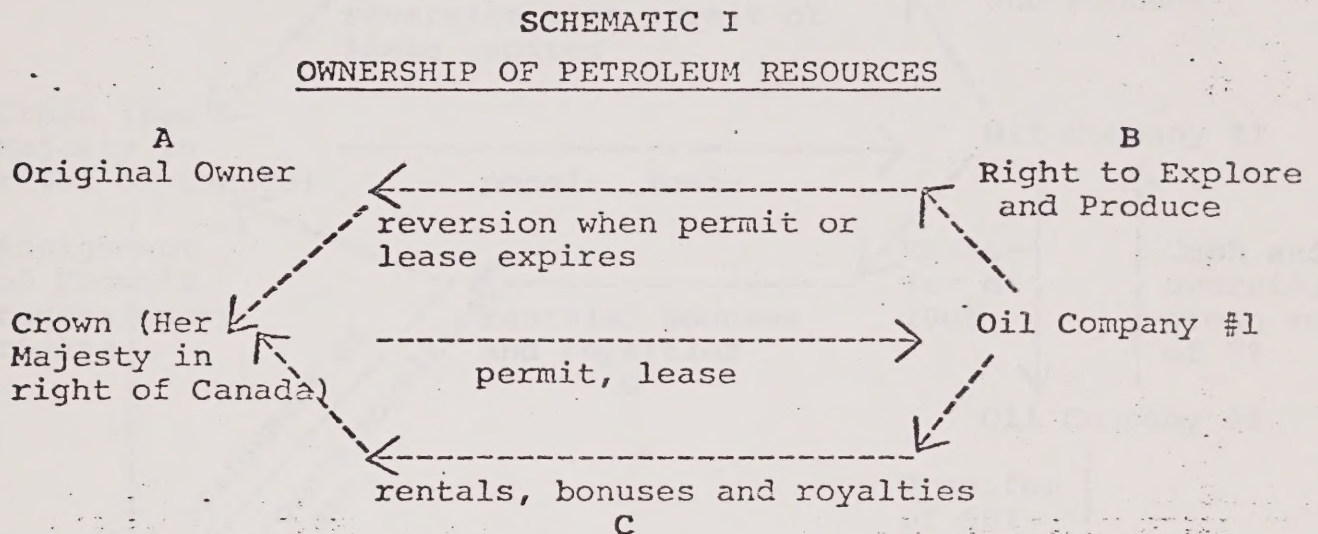
11. In the Northwest Territories, natural resources, including minerals both onshore and offshore, are owned in the absolute sense by Her Majesty the Queen in the right of Canada. Minerals are managed by the Oil and Minerals Division of the Economic and Development Branch of the Department of Indian and Northern Affairs. Development rights to oil and gas are granted by Her Majesty to oil companies under the Canada Oil and Gas Land Regulations through a system of permits (for exploratory work including drilling) and leases (for development

drilling including production). Exploratory rights for hard minerals are acquired by staking under the Canada Mining Regulations. Claims are converted into mining leases before any actual development takes place. Both oil and gas rights and hard mineral rights are granted subject to work stipulations, and payments to the Crown in the form of rentals and royalties. Most known hard mineral deposits in the Northwest Territories have been staked or are subject to mining lease. The sedimentary regions of the Territories, where oil and gas are prone to occur, are blanketed by subsisting oil and gas permits and leases. I have explained the oil and gas leasing system more fully in Canada's Petroleum Leasing Policy - A Cornucopia for Whom?, published by Canadian Arctic Resources Committee in 1973.

12. Since the exercise of these exploratory and development rights requires the use of surface lands for access, for drilling and mining sites, and for infrastructure, the regulations governing the issue of claims, permits and leases confer the right to use the surface for operations. The exercise of these surface rights is governed by Land Use Regulations for off-location operations, by Oil and Gas Drilling and Production Regulations for oil and gas well locations, and by special development agreements for mine sites such as Pine Point.

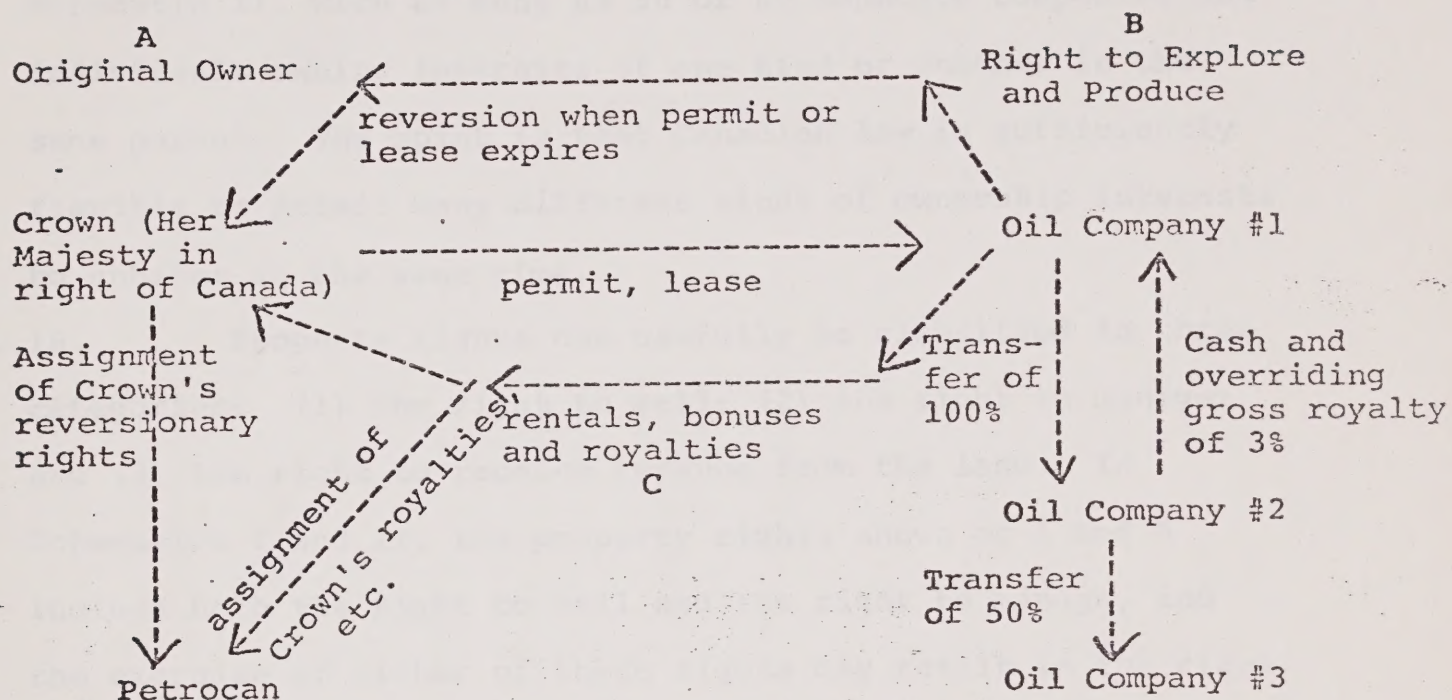
13. The pattern of ownership of petroleum resources in the Northwest Territories can be shown schematically. Ownership

of hard minerals shows a similar pattern:



14. A striking characteristic of Canadian property law is that all of the rights characterized by A, B and C in the schematic can be the subject of independent ownership and control contemporaneously and each owner can transfer his ownership to another and can even divide this ownership into further parts capable of independent contemporaneous ownership. Thus, in the case of a parcel of land in, for example, the Pointed Mountain region, the schematic could appear as follows:

SCHEMATIC II
OWNERSHIP OF PETROLEUM RESOURCES



In this hypothetical case, the current ownership pattern is that Petrocan has taken the place of the Crown as residual owner and owner of the royalties, etc., payable under the permit and lease. Oil Companies #2 and #3 have joint operating rights of 50% each and Oil Company #1 has an overriding gross royalty of 3%.

15. A typical petroleum property in Canada will reveal a much more complicated ownership pattern than is shown in Schematic II, with as many as 50 or 60 separate companies and individuals owning interests of one kind or another in the same parcel. The point is that Canadian law is sufficiently flexible to permit many different kinds of ownership interests to subsist at the same time.

16. Property rights can usefully be classified in three categories: (1) the right to sell; (2) the right to manage; and (3) the right to receive revenue from the land. In Schematics I and II, the property rights shown as A and B include both the right to sell and the right to manage, and the exercise of either of these rights may result in the right to receive revenue. The property rights shown as C are limited to the right to receive revenue. Therefore, for a settlement of native land claims to confer management rights over mineral resources, property rights of the types shown in A and B must be conveyed to the native people.

17. The Crown can transfer A-type rights in a number of ways. As to certain lands, the transfer could be outright so that the native people (or their development corporation) replaces Petrocan in our hypothetical case shown in Schematic II. Or the Crown could transfer only a fractional interest such as 25% or 50% or any other percentage to the native people. In

such event, the Crown and the native people would be joint owners. Should the Northwest Territories become a province, or two provinces, the retained interest of the Crown would change from an interest held in the name of Canada to an interest held in the name of the new province. If it were thought desirable, the fractional interest of the native people could be subject to restrictions on the right to sell except in the case of a joint disposition made by the Crown and the native people together. It must be realized that if the Crown has already granted oil and gas permits and leases to oil companies (as is mostly the case), the A-type rights that it transfers to the native people are subject to these permits and leases, and are therefore only residual. However, the permits and leases confer a number of important management rights on the Crown of a discretionary nature, such as the discretion to renew permits, in addition to C-type rights such as rents and royalties. The native people would share these rights once they became owners of a fractional interest jointly with the Crown. Should the permits and leases terminate, the native people if 100% owner, or the native people and the Crown together if joint owners of fractional interests, would have the right to develop the minerals in any manner they wished, or leave them undeveloped.

18. B-type rights could be transferred by the oil companies to the native people in a variety of ways so as to give the

native people a voice in development and operating decisions. It is this kind of joint venturing arrangement that Dr. Zakariya is advocating in the name of state participation, the benefits of which he describes in the passage quoted previously (pp. 5-6). Joint venturing is commonly practised in the oil and gas industry, with one joint venturer designated as operator and the others having prescribed management rights. In most state participating agreements and in some joint venturing agreements between private parties, the state or a private party is a "carried party" -- one who is not obligated to contribute to exploration costs and therefore avoids the exploration risk. In these agreements, the "carrying party", if the venture is successful in finding oil or gas, is entitled to recoup all his exploration expenditures before he and the carried party begin to share in production revenues. It is conceivable that oil companies would accept a native development corporation as a carried partner, being compensated in a land claims settlement for the diminution of their present interest, so that the intangible advantages described by Dr. Zakariya could accrue to the native people, with the industry gaining through an improved climate of understanding and acceptance of their operations.

19. No one type of native ownership interest need prevail throughout the Northwest Territories. Interests of increasing or diminishing management rights, or interests which maximize

revenues from mineral production, can be matched to the priorities on which the government of Canada and the native people agree.

20. So far I have been describing how ownership interests in mineral resources can confer rights

(i) to receive revenues from, and

(ii) to exercise management rights over

the development of these resources. If Canadians are prepared to make a settlement of native land claims that gives due recognition to the legal rights of native peoples, the Canadian system of property law provides the means to do so.

21. Rights to receive revenues and to control development can also be conferred by legislative provisions such as a requirement that the government turn over to native peoples a portion of royalties and taxes received from mineral development (the Alaska settlement), or a requirement that no mineral development take place unless the native community gives its consent in advance (Indian reserve lands in Canada). Probably a land claim settlement would include a mixture of legislated rights and ownership rights to achieve the agreed goals of giving the native peoples in some cases a right to veto developments, in other cases a right merely to receive a share of resource revenues, and in others an opportunity to be a partner in development with an oil or mining company or to develop the resources themselves.

22. I will conclude this direct testimony by a brief analysis of the land claims settlements achieved in Alaska and in northern Quebec and proposed for "Nunavut" by the Inuit Taparizat of Canada insofar as they relate to mineral resources. I will also refer to the rules governing petroleum leasing of Indian Reserve lands in southern Canada and to the proposed settlement of aboriginal land claims in Australia.

Alaska

The native people receive full ownership of mineral rights, subject to existing rights, in the lands to be allotted to the Village and Regional Corporations comprising approximately 40 million acres. These rights are of the A-type and confer the right to manage, but the right to sell is specially restricted for a period of twenty years. In addition, as part of the compensation for the surrender of aboriginal rights, the native people are to receive payments equivalent to a 2% gross royalty from mineral revenues in Alaska over a 20-year period up to a maximum of \$500 million.

Northern Quebec

Under the James Bay Agreement executed on November 11, 1975, lands in the region are divided into three categories. Category I lands, comprising approximately 2,158 square miles, are set aside for the James Bay Crees and the Inuit of Fort George (5.1.1). Quebec remains the owner of minerals in these lands (5.1.10). Where there are existing mineral claims

covering lands within the areas of Category I lands, these mineral claim lands are excluded from Category I (5.1.5) and designated Category III lands, which are those in the region which remain public lands of Quebec unaffected by native rights (5.3.1). Category II lands, comprising 25,130 square miles, provide native persons with the exclusive right of hunting, fishing and trapping (5.2.1) subject to mineral exploration (5.2.5) and to special restrictions on mineral development (5.2.3). With respect to minerals in Category I lands that are not subject to existing claims, it is contemplated that mineral development may take place, but only with the consent of the affected community on the payment of compensation (5.1.10). By a supplementary agreement made on the same date as the James Bay Agreement, the Council of Crees acknowledges that the James Bay Development Corporation will explore for minerals in Category I lands and the Corporation undertakes to expedite its exploratory work around the settlements of Rupert House, Eastmain, Fort George and Mistassini, and to abandon its exploration and development rights if negative results are obtained.

Because, in the Cree territory, practically all potential mineral sources are covered by claims or development permits, the potential for benefit to them from mineral development is very slight, with the possible exception of the Mistassini Reservation. It should also be noted that

mineral explorers and developers can exercise surface rights even over Category I lands if necessary to exploit their mineral claims (5.1.6(c)).

In the Agreement in Principle, the native people sought to benefit from the exploitation of minerals through a provision for royalties reading as follows:

In addition, the Native people shall also receive payments of sums, in an amount not less than 25% of the sum of the royalties or equivalent benefits such as mining duties, to be detailed in the Final Agreement, which Quebec is entitled to receive from all future development in the Territory over the next 50 years, excluding hydro-electric development. However, the said sums will be paid, in respect to each development which begins within the said 50 years, only for the first 20 years of such development.

However, such a royalty provision was not accepted and, instead, the final James Bay Agreement provides that, in exchange for renunciation by the native peoples of claims to royalties, mining taxes, etc., Quebec will pay an additional \$75,000,000 plus interest by the issuance of five series of bonds of the province maturing 20 years after their respective dates of issue in each of the years 1975 through 1979 (25.2). In effect, the James Bay Agreement confers only a right to receive a lump sum payment for the exploitation of mineral resources, with only a limited right to control development through the requirement of an agreement of consent.

Nunavut

Under the proposal for settlement dated February 27, 1976, the boundaries of the new Inuit territory would include the sedimentary basins of the Mackenzie Delta, the Beaufort Sea and the high Arctic which have high potential for petroleum development. It would also include a substantial portion of the pre-Cambrian region northeast of Hudson's Bay and Baffin Island, both of which have potential for hard mineral developments. In these regions the Inuit claim ownership in fee simple of 250,000 square miles down to 1500 feet below the surface. Existing petroleum and mining rights in these Inuit lands would be confirmed except that their duration would be reduced to their first term (no renewal) or 15 years, whichever is less, and, as to 50,000 of the 250,000 square miles, the communities could require the government to extinguish existing rights for compensation or subject their exercise to special conditions. Following a moratorium on leasing and staking while the Inuit lands are selected, petroleum and mining development could take place on the Inuit lands under federal laws but only subject to an "agreement for consent" by the community which could include wide-ranging provisions for social and economic development together with fixed royalties. In result, the Inuit would have a veto power and extensive management rights over any development allowed to take place. With

respect to minerals occurring at the surface or down to a depth of 1500 feet, the fixed royalties would be those stipulated under the federal petroleum and mining laws and would be paid by the developer to the federal government which, in turn, would account for the royalties to the Inuit. Royalties would be defined to include all forms of revenue under petroleum and mining leases, including rentals, bonuses, gross royalties and net proceeds payments, and in the event these revenues were less than 10% of a reference value, defined as the true market or competitive value, the federal government would pay the deficiency to the community. With respect to minerals occurring below 1500 feet under Inuit lands, the royalty would be fixed at 3% of the reference value. In addition, while there would be no control over petroleum and mining outside the Inuit lands, the 3% royalty based on reference value would also be payable on all mineral production below 1500 feet under the remainder of Nunavut and under the seabed extending from its boundaries so far as Canada's jurisdiction extends.

Petroleum Leasing of Indian Reserve Lands

A task force was appointed in 1972 under the chairmanship of Dr. Arthur Irwin, then Chief of Indian Minerals in the Department of Indian Affairs and Northern Development, to review the federal Indian Oil and Gas Regulations (SOR/66-300) which apply to Indian reserves in which the oil and gas rights

have been released to the Crown pursuant to the Indian Act for administration on behalf of the Indian people. I was appointed a member of this task force as an independent consultant. The chief concern expressed to the task force by representatives of the Indian people was lack of participation in development decisions. Consequent on the report of the task force, a new Indian Oil and Gas Act (S.C. 1974, c. 15) was enacted. Section 7(1) of the Act stipulates that "the Minister, in administering this Act, shall consult, on a continuing basis, persons representative of the Indian bands most directly affected thereby".

23. My final comment is that surface ownership of land without mineral ownership is often of little value. Pre-existing mineral ownership carries preemptive surface rights, as the James Bay Agreement clearly shows, so that the surface owner will invariably have to give way to the desire of the mineral owner to exploit his rights. The issue of land use permits under the Land Use Regulations, despite the opposition of native communities, is another example of the preemptive character of pre-existing oil permits and mineral claims. This subservience of the surface owner is often economic as well as legal, particularly in the north, because the speculative value of an unproved oil or mineral tract normally exceeds its use for traditional hunting, fishing and trapping purposes and its value

for the exploitation of a proven oil or mineral resource invariably exceeds other economic uses of the land. The result of these legal and economic imperatives is that a land settlement must confer management rights over minerals either by legislation or through ownership if the integrity of the surface rights granted by the settlement is to be ensured. The proposed Inuit settlement would ensure this integrity of surface rights by the requirement of "agreements of consent" to mineral developments, save as to existing rights. In the case of existing rights to minerals, integrity of surface rights would be ensured as to one-fifth of the Inuit lands, by the requirement that these existing rights be extinguished for compensation with ownership down to 1500 feet transferred to the Inuit community corporations. Thereafter the corporation would control development of minerals down to 1500 feet through ownership and below that depth through the legislated requirement of an agreement of consent.

24. In support of my contention that a land claims settlement must confer management rights over minerals if the integrity of surface rights is to be ensured, I refer to the Second Report, April 1974, of The Aboriginal Land Rights Commission (Australia). The Commissioner, the Honourable A.E. Woodward, quotes the words of counsel for the Aborigines as follows:

'It was clear from our instructions that the title to be given to the Aborigines in respect of their traditional land must include the absolute right to all both on and in the soil itself including all minerals as well as gas and oil. This is a matter of particular importance to the Aborigines. We believe that any attempt to compromise in relation to this question of mining or minerals may largely undo the benefits of granting to them ownership of their land. To grant to Aboriginal communities with the one hand a title to their land and to take from them with the other the capacity to regulate or prevent the entry upon that land of other persons to conduct what may turn out to be extensive mining operations, may be to largely destroy the rights being given.'

The Commissioner accepted this submission, recommending that while minerals and petroleum on Aboriginal lands should remain the property of the Crown, the Aborigines should have the right to prevent exploration for them on their traditional lands (§708(i), (ii), p. 127). Should the Aborigines wish exploration to proceed, their consent would be required (§708(ix) and they would be free to negotiate such matters as exploration payments, royalties, joint venture interests, protection of sacred sites, Aboriginal employment and the setting up of appropriate liaison arrangements between Aborigines and the company (§708(x), (xi)).

Andrew Gordon Thompson

Present position: Chairman, British Columbia Energy Commission

Employer:
B.C. 1941, University of Manitoba
B.C. 1944, University of Toronto
B.C. 1947, Columbia University

Professional
experience:
1945-49 - Lecturer, University of Toronto
1949-53 - Assistant Professor, University
of Toronto
1953-57 - Chief Engineer, Saskatchewan
Electricity Commission

1957-61 - Professor, University of Alberta

APPENDIX A WITNESS RESUME

1961-62 - Professor, University of Alberta
1962-present - Professor, University of
British Columbia
1972-present - Chairman, British Columbia
Energy Commission (at present
Chairman)

Professional
experience:

1. Chairman, B.C. Energy Commission
Committee, B.C.E.C. 1971

Professional
affiliations:
Member of the Bar of Manitoba, Alberta,
and the Northwest Territories

Other
affiliations:
Faculty Association, U.B.C. (President, 1970-71)
Association of British Columbia Teachers (President,
1970-71)
Canadian Bar Association

Andrew Royden Thompson

Present position: Chairman, British Columbia Energy Commission

Education: LL.B, 1948, University of Manitoba
LL.M, 1954, University of Toronto
J.S.D., 1967, Columbia University

Professional experience: 1949-50 - Lecturer, University of Toronto
1950-53 - Assistant Professor, University of Alberta
1953-57 - Editor & author, Butterworth's, Toronto
1957-62 - Associate Professor, University of Alberta
1962-69 - Professor, University of Alberta
1969-present - Professor, University of British Columbia
1973-present - Chairman, British Columbia Energy Commission (on leave from U.B.C.)

Relevant litigation:

1. Counsel in In Re Paulette (Supreme Court, N.W.T.), 1973.

Professional affiliations: Member of the bars of Manitoba, Alberta, and the Northwest Territories.

Other affiliations: -Faculty Association, U.B.C. (Treasurer, 1970-71)
-Association of Canadian Law Teachers (President, 1970-71)
-Canadian Bar Association

- Director, Canadian Petroleum Law Foundation
- Member, International Council on Environment Policy, Law and Administration, International Union for the Conservation of Nature and Natural Resources
- Member, Advisory Committee on Arctic Development and the Environment, Arctic Institute of North America
- Chairman, Canadian Arctic Resources Committee
- President, Arctic International Wildlife Range Society
- Trustee, National and Provincial Parks Association of Canada
- National Director, Canadian Nature Federation

Publications: - General Editor, Butterworth's Ontario Digest
 - General Editor, Petroleum Law Supplement,
 Alberta Law Review, 1964-68
 Co-author, Lewis and Thompson, Canadian Oil
 and Gas, 3 vol.

Also many major and minor articles dealing with legal aspects of hydrocarbon development, the environment, and northern Canada.

APPENDIX B

List of reports, etc., referred to or relied on

Thompson, A., "Sovereignty and Natural Resources - A Study of Canadian Petroleum Legislation", (1969) 4 U.B.C. Law Review 161

"Petroleum Land Policies - Alaska and Northern Canada", (1969) 4 U.B.C. Law Review 227

Zakariya, H.S., "Sovereignty, State Participation and the Need to Restructure the Existing Petroleum Concession Regime", (1972) 10 Alberta Law Review 218

Thompson, A., and M. Crommelin, "Canada's Petroleum Leasing Policy - A Cornucopia for Whom?", Canadian Arctic Resources Committee, March 1973.

